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From Festive Cheer to Retail Fear: Addressing Organized Retail Crime

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tee on Counterterrorism, Law Enforcement, and Intelligence

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Chairman Pfluger, Ranking Member Magaziner and Members of the Subcommittee. My name is Summer Stephan, and I am the elected District Attorney for San Diego County, CA, and the President-Elect of the National District Attorneys Association (NDAA).

I've devoted my entire professional life to protecting my community from crime and violence. And I'm here to give you a prosecutor's perspective on the vital role we play in addressing the serious challenge and destructive impact of retail theft and organized retail crime. Organized retail theft poses a significant threat to businesses, employees, consumers, communities, and the overall economic stability of our nation.

From my ground level view of looking in the eyes of employees in the retail industry, many are feeling unsafe and traumatized by these crimes. The impact is felt in both large retail and also small businesses. I view organized retail theft as an economic crime that threatens human beings and lives. This is why I'm honored to testify here today to bring you the voice of the victims. Retail theft and organized retail crime is not a victimless crime and I'm grateful for your deep investment and commitment as exemplified by this hearing.

Background

Reports by industry associations show that billions of products have been stolen from U.S. retailers and that the losses continue to mount year after year. Another insidious impact of this crime is the report of jobs lost in the retail industry. From a prosecutor's perspective, also compelling are the reports of an increase in violence and aggression by the criminals committing these crimes.

Key Challenges

I have made combating retail theft and organized retail crime a priority in my office. I wanted to send a clear message to businesses, their employees, customers, and our community that we will follow the rule of law and bring accountability and justice. I formed a specialized team of prosecutors and investigators to fight organized retail theft and work with businesses and law enforcement to build stronger cases.

We quickly identified **three key challenges**:

First is the evolution of more **sophisticated criminal networks**. Organized retail theft is no longer just the work of isolated petty criminals. Instead, it has evolved into highly sophisticated operations, often conducted by well-organized networks and coordinated across multiple locations making identification and prosecution much more challenging.

Second is an **inadequate legal framework**. Existing laws and penalties in many states are not sufficient to deter or appropriately punish criminals engaged in organized retail theft. Many states, including California, have passed laws that increased the dollar amount of theft to be charged with a felony to \$950 or \$1,000 and eliminated enhanced consequences for recidivist and habitual offenders. Law enforcement and retailers agree that the increase in retail theft-related incidents has been the direct result of changing laws

to lighten penalties for shoplifting. The message that these deficient laws send is that this is the wild west with no rules or accountability.

The third key challenge is **coordination**. In the past, the lack of coordination and information-sharing among retailers, law enforcement agencies, and other stakeholders hindered the ability to combat organized retail theft effectively. A continued collaborative and multi-faceted approach is necessary to address this issue comprehensively.

Here are some examples from San Diego County on the scope and sophistication of the retail theft, helpful legal frameworks and enhanced coordination that we utilized to bring justice and accountability, which may offer a path forward for regions impacted across the U.S.

In a one-year period, my office filed criminal cases involving organized retail theft against 76 defendants resulting in prison or jail terms for the majority of the criminals who have been convicted.

In February of this year, two men were sentenced to 44 months in prison for a series of brazen, organized retail theft crimes where multiple Sunglass Hut store location were targeted resulting in a reported loss of more than \$230,000. Hundreds of pairs of sunglasses were stolen from nine Sunglass Hut store locations, some of which were targeted more than once.

Another theft ring stole more than \$350,000 in Victoria's Secret merchandise over a seven-month period.

We successfully prosecuted another retail theft crew for 42 felony counts for breaking into ULTA Beauty, Nordstrom Rack, and other stores.

Those thieves caused over \$700,000 in loss to businesses.

This prosecution was made possible by a law passed in 2019 that allows aggregation on different theft dates and different stores but only as to organized retail theft which requires several elements to be met but doesn't apply to theft in general.

It's a tactic that's now being adopted across the nation.

Almost all states now have partnerships between law enforcement and retailers, indicating a nationwide response to this type of crime.

In fact, recently, **Chairman Pfluger's** home state of Texas joined the growing list of states that have created statewide task forces to investigate and prosecute suspects involved in organized retail crimes.

At least 34 states now have organized retail crime laws. It's important that these laws include increased penalties for those involved in these criminal activities and provisions that enable law enforcement to better investigate and prosecute offenders.

My office has met with retailers, business association representatives, retail industry

employee representatives, law enforcement and others to discuss the scope of the problem in San Diego County. We communicated steps law enforcement is taking to stop and prosecute these types of crimes and discussed possible future prevention strategies.

Partnering with the U.S. Chamber of Commerce to educate their members on how to build better relationships with their law enforcement and prosecutors has been a positive solution.

We have partnered with the **California Highway Patrol's (CHP) Organized Retail Crime Task Force** and as a result, several successful prosecutions have occurred. This proved valuable because these organized syndicates operate across county lines. CHP investigators build big cases for us to prosecute by acting as liaison between retailers and my office. This effort is also supported by the Organized Retail Crime Alliance which includes retailers, law enforcement and prosecutors working together.

They gather reports and video evidence, conduct surveillance, execute search warrants, return stolen product to retailers, and write complete investigative reports with spreadsheets of thefts and loss amounts so we can prosecute defendants for as many thefts in one case as possible.

There are additional promising enhanced legal frameworks on the horizon.

Congress recently passed the INFORM Act, which requires online marketplaces, like Amazon and eBay, to collect, verify, and disclose certain information from high-volume sellers and provide consumers with means to report suspicious activity.

This is a step in the right direction to stop organized criminals from selling stolen goods on online marketplaces. It removes the anonymity of the seller and makes it easier for law enforcement to find these online sellers of stolen goods and prosecute them.

This law directly addresses the interstate aspects of organized retail theft— something I know this Committee is concerned about.

But it's key that there is funding for enforcement of the INFORM Act so the Federal Trade Commission (FTC), Attorney General, federal, and county prosecutors can identify online sellers of stolen goods and take action to hold them accountable.

Also, I appreciate Representatives Magaziner, Titus, D'Esposito, and Correa for the co-sponsorship of H.R. 895, the Combating Organized Retail Crime Act of 2023— which would expand federal enforcement of criminal offenses related to organized retail crime and establish an Organized Retail Crime Coordination Center within the Department of Homeland Security. We know that an investment in technology consistent with this proposed law can be a game changer.

Recently we used a similar model in San Diego to combat elder scams through an Elder Justice Task Force.

Policies and Partnerships to Change Behavior on a National level

There is some positive news to share in our fight to combat retail theft and organized retail crime that stands out as a model for stronger collaboration.

In August 2022, the National District Attorneys Association (NDAA) and the Retail Industry Leaders Association (RILA) [announced the first-of-its-kind national partnership](#) to combat retail crime.

Earlier this Spring, the two organizations also [announced the launch of its Vibrant Communities Initiative](#), an innovative pilot project to address root drivers of habitual theft, violence and other unlawful activity. This initiative brings together prosecutors, retailers, law enforcement, social service organizations, policymakers, and the business community to increase information sharing, assist in the prosecution of habitual and violent offenders.

In September, NDAA and RILA convened a [National Store Walk Month](#) where prosecutors nationwide walked retail stores with management teams providing both parties with an exchange of insights and comprehensive understanding of challenges. Almost 100 walks occurred.

My specialized Organized Retail Crime team participated in store walks at Home Depot, Dick's Sporting Goods, Target, Walmart, Lowes and Ulta Beauty. That particular Ulta store in San Marcos, California, that I visited was one of 21 area Ulta stores that last year, fell victim to smash-and-grab crews. In just one month, the thieves stole \$127,000 of expensive perfumes from those stores. I also toured Sunny Perfumes; a small business that has also been targeted by retail thieves. The owner, Sunil, shared with me that he's spent thousands of dollars repairing smashed windows and adding metal shutters for security and has had to move his more expensive perfumes to the back while leaving cheaper perfumes more accessible.

We can't lay the blame at the feet of retailers on this issue, expecting them to lock up even more products away from customers and take a further business loss. Instead, collaborative approaches are leading us to a more comprehensive understanding of the challenges at hand and we're cultivating a united, efficient response to combat them.

Approaches to Accountability

When it comes to prosecuting these cases, we simply need to restore the rule of law and have balanced accountability that fits the crime. Prosecutors should continue to pursue justice by assessing and differentiating a youthful offender that had a lapse of judgment as compared to what we see in organized retail theft or habitual theft, which involves premeditated criminal behavior and lawlessness.

Action Must be Taken

In addition to common sense legislation; increased coordination and collaboration; and strategic, focused prosecutions, public awareness can be effective.

The federal government can consider launching a public awareness campaign to educate consumers about the consequences of purchasing stolen goods online or at swap

meets, and the role they can play in reducing organized retail theft. A well-informed public can act as an additional deterrent to these criminal activities.

[NDAA and RILA recently launched a joint website](#) that is very successful in raising awareness by providing additional resources on focus areas and public policy, news, blogs, and events.

I appreciate the opportunity to speak to you about these important and complex issues. The office of the District Attorney of San Diego County and NDAA stand ready to assist as we look for ways to tackle organized retail crime and retail theft that threatens the vibrancy of our communities.